

# EXHIBIT 41

to Verified Complaint



July 15th, 2024  
Kalispell City Council Public Hearing

# **Flathead Warming Center Official Response to Concerns Regarding Potential Revocation of the Nonprofit's Conditional Use Permit**

Return to:  
Kalispell City Clerk  
PO Box 1997  
Kalispell, MT 59903

# Conditions for Approval of Conditional Use Permit #KCU -20-05

City of Kalispell  
P. O. Box 1997  
Kalispell, Montana 59903-1997

## GRANT OF CONDITIONAL USE

### APPLICANT:

Flathead Warming Center  
110 Stillwater River Trail  
Whitefish, MT 59937

### PROPERTY OWNER:

Chad Fincher, POA for Darrell Fincher  
35 Taftoe Drive  
Kalispell, MT 59901

### LEGAL DESCRIPTION:

Assessors Tracts 5PA, 5PB, and 5BA in Section 7, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana and as further described on the attached Exhibit A.

### ZONE:

B-1, Neighborhood Business

The applicant has applied to the City of Kalispell for a conditional use permit to allow the operation of a homeless shelter for up to 40 guests per night, located at 889 North Meridian Road.

The Kalispell City Planning Board and Zoning Commission, after due and proper notice, on October 13, 2020, held a public hearing on the application, took public comment and recommended that the application be approved subject to nine (9) conditions.

After reviewing the application, the record, the Kalispell Planning Department report, and after duly considering the matter, the City Council of the City of Kalispell, pursuant to the Kalispell Zoning Ordinance, hereby adopts Kalispell Planning Department Conditional Use Report #KCU-20-05 as the Council's findings of fact, and issues and grants to the above-described real property a conditional use permit to allow the operation of a homeless shelter for up to 40 guests per night, located at 889 North Meridian Road in the B-1 zoning district, subject to the following conditions:

1. That commencement of the approved activity must begin within 18 months from the date of authorization or that a continuous good faith effort is made to bring the project to completion.
2. The conditional use permit is not valid until the B-1 zoning text amendment allowing homeless shelters as a conditionally permitted use becomes effective under statutory timelines 30 days from approval of the zoning amendment on second reading.
3. That the development of the site shall be in substantial conformance with the submitted application and architectural/site plan drawings.

4. Prior to occupancy, the applicant shall apply for a building permit through the City of Kalispell Building Department to review the proposed improvements and change of use.
5. Architectural renderings are required to be submitted to the Kalispell Architectural Review Committee for review and approval prior to issuance of a building permit for any work which significantly changes the exterior appearance of the building.
6. To ensure the traffic flow and access comply with Kalispell Design and Construction Standards, as well as compliance with other site development standards, the development shall receive Site Review Committee approval prior to issuance of the building permit.
7. A minimum of one paved parking space per five occupants shall be provided. The specific design shall be submitted for review and approval in conjunction with building permit and site review prior to occupancy of the building.
8. The existing sidewalk along North Meridian Road shall be extended to define the parking lot access and reduce the driveway to 24 feet, along with a five-foot landscape buffer adjacent to the sidewalk. The sidewalk should be continued through the approach in a manner designed to meet City of Kalispell Standards for Design and Construction.
9. The number of occupants shall be limited to no more than 40 people. Increases to the occupancy may be applied for and would go through either the conditional use permit or administrative conditional use permit process. The review would be based on an analysis of the increased impacts.

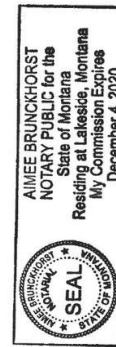
Dated this 2nd day of November, 2020.

STATE OF MONTANA )  
 ) ss  
County of Flathead )

  
Mark Johnson  
Mayor

On this 2 day of November, 2020 before me, a Notary Public, personally appeared Mark Johnson, Mayor of the City of Kalispell, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same on behalf of the City of Kalispell.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal, the day and year first above written.



  
Aimee Brunckhorst  
Notary Public, State of Montana

0246400, 0246402

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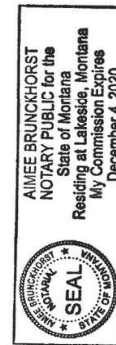
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Aimee Brunckhorst  
Notary Public, State of Montana

0246400, 0246402



## 9 Assertions

- 1 Contrary to initial representations by the FWC, FWC has increased the number of homeless individuals in the surrounding area. This assertion is supported by public comments to Council.
- 2 Contrary to initial representations by the FWC, the surrounding neighborhood has seen an increase in loitering in the area. This assertion is supported by public comments to Council.
- 3 Contrary to initial representations by the FWC, FWC has failed to be responsive or accountable to neighbors' concerns. This assertion is supported by public comments to Council.
- 4 Contrary to initial representations by FWC, the presence of FWC has increased law enforcement calls in the area. This assertion is supported by the difference in the number of calls to law enforcement when FWC was open compared to when it was closed.
- 5 Contrary to initial representations by the FWC, FWC services communities beyond the Kalispell community. This assertion is supported by public comments to Council and public records including statements from City of Whitefish.
- 6 Contrary to initial representations by the FWC, FWC has not been a good neighbor as its patrons have left garbage and needles, defecated, and loitered on the property and in the neighborhood and have failed to be "protective of . . . the neighborhood." Additionally, FWC has not been responsive and has been dismissive of neighbor complaints. Some of those in the neighborhood stated they did not know Ms. Horn or have her contact information. This assertion is supported by public comments to Council and law enforcement call data.
- 7 Contrary to initial representations by the FWC, transportation of its patrons into and out of the neighborhood has not been provided. This assertion is supported by public comments to the Council.
- 8 FWC initially represented that loitering was a serious issue that would be addressed accordingly. Recently, however, FWC has minimized the seriousness of the loitering issues in the neighborhood. This assertion is supported by public comments to the Council.
- 9 FWC initially represented that it would be a good neighbor and not cause issues within the neighborhood. No where in the initial representations did FWC limit the area which it considered the "neighborhood." Recently, however, FWC has indicated it only perceived the neighborhood to encompass an area within 150 feet of FWC. This assertion is supported by public comments to the Council.

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## **There are two parts to each assertion:**

- 1** Each assertion begins with “contrary to initial representations by the FWC,” so we will address that part of the assertion first.
- 2** Secondly, we will present our opinion of whether FWC is responsible for the remainder of the issue outlined.

FWC initially represented that it would be a good neighbor and not cause issues within the neighborhood. No where in the initial representations did FWC limit the area which it considered the “neighborhood.” Recently, however, FWC has indicated it only perceived the neighborhood to encompass an area within 150 feet of FWC. This assertion is supported by public comments to the Council.



**“There is no standard for a neighbor in our conditional use permitting process.”**

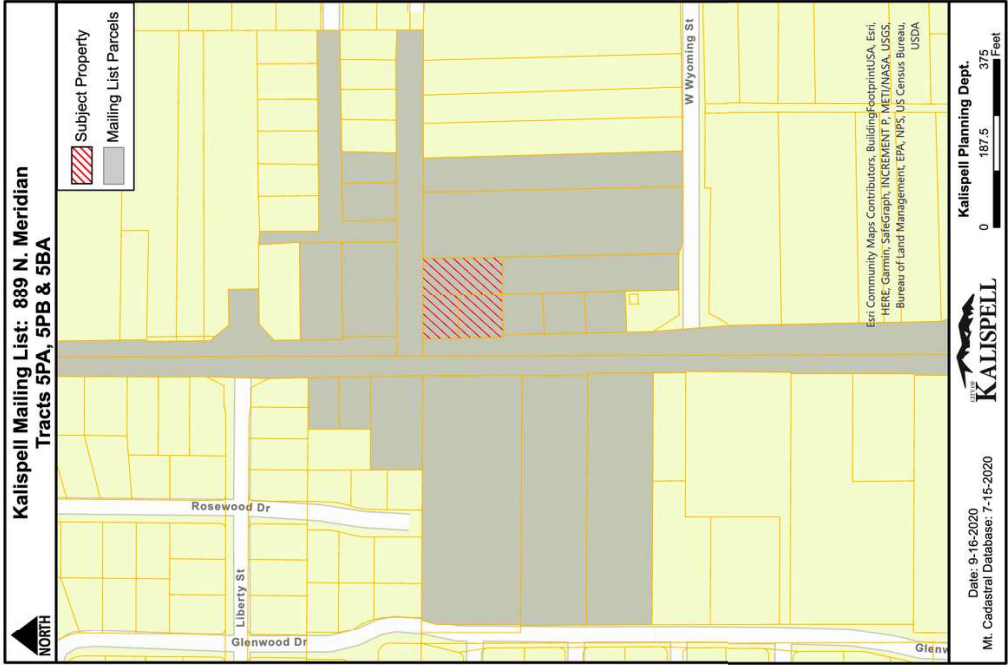


Kalispell City Council Work Session on May 28th, 2024.

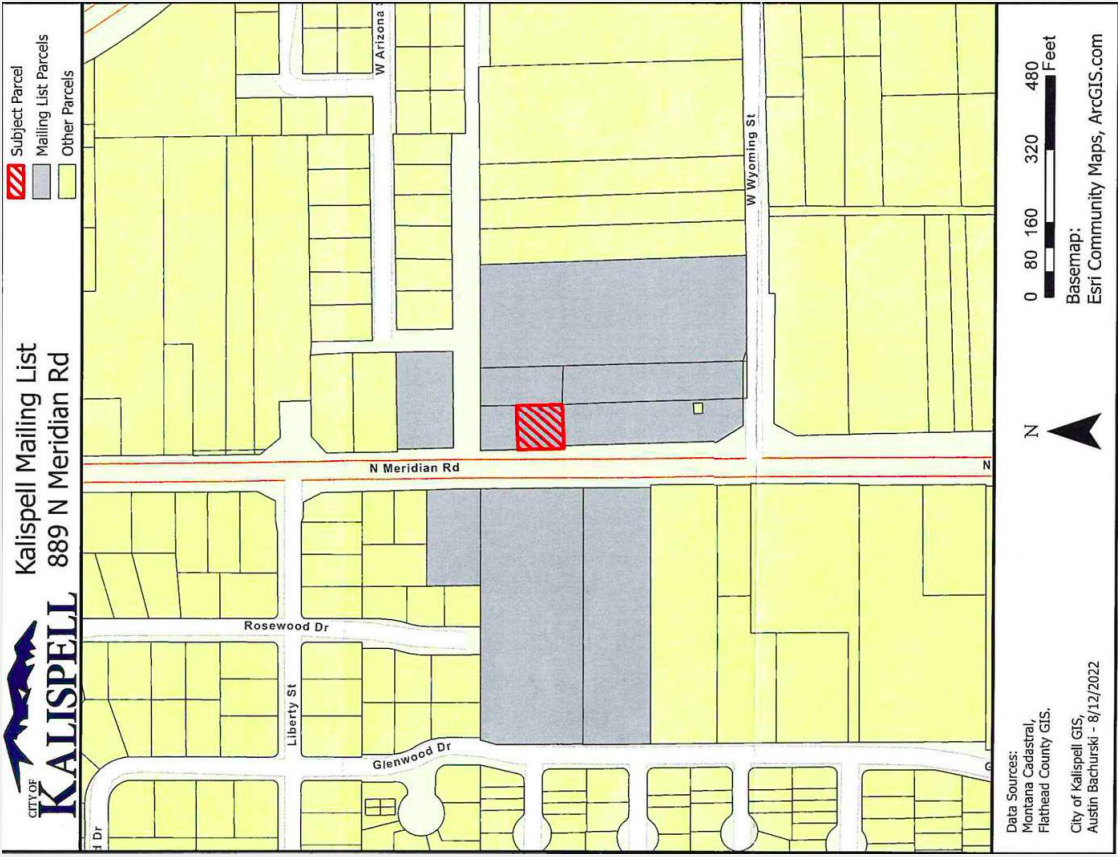
While it is true that nowhere in the application for the Flathead Warming Center's Conditional Use permit did the non - profit provide a definition for what it considered the neighborhood, it's important to point out, neither did the City.

During the initial Conditional Use Permit Application process, Mrs. Tonya Horn wanted to take the first step in being a good neighbor. She was proactively in contact with PJ Sorenson of the Kalispell Planning Department regarding who would need to be notified by the City of the proposed conditional use permit application/zoning change.

When she was informed by PJ that the City would be in contact with everyone within 150ft, she followed this standard set by the City and began reaching out to these individuals.







“You are being sent this notice because you are a property owner within 150 feet of the proposed project noted below and will be most directly affected by its development.”



**Planning Department**  
201 1<sup>st</sup> Avenue East  
Kalispell, MT 59901  
Phone: (406) 758-7940  
Fax: (406) 758-7739  
[www.kalispell.com](http://www.kalispell.com)

You are being sent this notice because you are a property owner within 150 feet of the proposed project noted below and will be most directly affected by its development. You have an opportunity to present your comments and concerns to the Kalispell Planning Department. You may come into the office in person at the above address or you may contact the office at (406) 758-7940 for additional information. Written comments may be submitted to the Kalispell Planning Department prior to the submission date, or emailed to us at [planning@kalispell.com](mailto:planning@kalispell.com).

#### NOTICE OF PROPOSED ADMINISTRATIVE CONDITIONAL USE PERMIT

August 16, 2022

**City of Kalispell Notice of Proposed Administrative Conditional Use  
Permit for the Flathead Warming Center (8/16/2022)**

# Letters to Neighbors



Physical Address:  
889 North Meridian  
Kalispell, Montana 59901

Mailing Address:  
PO Box 7142  
Kalispell, Montana 59904

Director's cell:  
(406) 250-8652

Director's email:  
[flatheadwarmingcenter@gmail.com](mailto:flatheadwarmingcenter@gmail.com)

Dear Neighbor,

It is our commitment to do all that we can to be a good neighbor. Communication is an important step in the process of earning your trust and respect. We want to make sure you are aware of our first night of operations inside the Meridian building. We open this Monday night and plan to remain open for overnight shelter services through April. In the spring, we plan to complete extensive renovations to the inside of the building and make much needed improvements to the property.

#### Opening Night

Monday, December 21st, 2020  
6:00 p.m.

#### Regular Shelter Hours

7:00 p.m. - 7:00 a.m.

#### Eagle Transit

Monday - Fridays  
(excluding holidays)  
7:00 a.m.

You have most likely seen an increase in foot traffic up and down Meridian. Not all, but many of these individuals may be homeless. It is an extremely difficult time to be homeless right now. Due to Covid-19 restrictions, there are very limited places for homeless individuals to go during the day; even to be inside a service provider's building. As we get settled into the Meridian building, our hours will remain to 7pm - 7am. It is a need in our community, however, we do not have plans at this time to offer daytime hours.

As we settle into operations inside the Meridian building, we will be teaching our guests how to be a good neighbor. Our commitment still stands, if a guest of ours is not a good neighbor, they will lose shelter services with the Warming Center. We are committed to not being a homeless hangout. If guests arrive early, they will lose their bed for the night. Arriving early has recently been an issue in our current location. Those who have arrived early have not caused a problem, however it is against our policies. Please give us an opportunity to settle into the new building. However, we will be enforcing this rule from the beginning. If a guest is present when staff arrives, that guest will lose their bed for the night. I will also have the ability to monitor who arrives early through security cameras that are to be installed. As we settle in, please communicate how we can be a better neighbor.

Please allow me to share a few points with you:

- There has been a homeless camp in the neighborhood for almost a year now.
- Not everyone who is homeless chooses to stay at the Warming Center.
- Seeing a homeless person can make many of us feel uncomfortable and feeling uncomfortable can often make us feel as if we are in danger.

- If you feel in danger, or if any individual will not leave your property when asked, you should call the police immediately. This is the recourse that we all have if an individual's behavior is alarming.

- I/we can not be responsible for everyone's behavior in the neighborhood, however there are many things that I/we can do. Please do not hesitate to reach out.

Please come visit one evening during operations. We would not need to introduce you as a neighbor, unless you prefer. I can meet you there. Concern and anxiety is often put at ease after a person visits and observes our operations. You are welcome anytime. We want to partner with you.

Please call anytime.  
Merry Christmas!

Sincerely,

Tonya Horn  
Executive Director  
(406) 250-8652

Fall 2020 FWC Letter to Neighbors



# Letters of Neighbors



## Hello Neighbor,

It continues to be our focus to do all that we can to be a good neighbor. We want to share an update with you. What an amazing 2021-2022 Warming Center Season. Thank you for your continued support as we care for individuals and families who are hurting in the Flathead.

This winter season, 349 unique individuals found warmth and safety inside the Warming Center. Providing our guests the resources and tools needed to move beyond homelessness is very important. We are able to provide so much more now that we have a remodeled, dedicated building! Daily community resources were brought inside the Center. We are so thankful to our community who continues to give of their time to help provide wrap-around service to our guests. Just to name a few: Flathead Job Service, Vocational Rehabilitation, mental health counseling, Community Action Partnership, Alpenglow Clinic, and many more. Our guests have received medical care onsite through Shepherd's Hand Clinic. This season we were also able to provide haircuts onsite.

This year has been miraculous! We have witnessed people go straight into inpatient alcohol and drug treatment from the Warming Center. Many have maintained mental health counseling onsite as well as find employment. At one point, 60% of our core group of guests were working. Having a place to lay your head down on a pillow, a hot shower, a restroom, and access to laundry makes a huge difference. This season, we were able to provide 3,139 guest showers, and 949 guest loads of laundry.

I'm sure you witnessed the line up every evening as our guests patiently waited in hopes they will be able to be one of 40 people to get a bed for the night. We have been heartbroken to have to turn individuals away. The hard truth is, 186 different times this season, we were not able to provide a bed. The need is so great in the Valley. The need for shelter has unfortunately grown beyond our expectation.

Spring 2021 FWC Letter to Neighbors

In the spirit of good communication, we want to share with you our plan to take steps with the City to add 10 additional beds. When we are able to bring individuals inside to warmth, safety, and structure, we are all safer. It is safer for our neighbors and for the individuals that we serve when we are able to bring everyone inside at night. We will be saving 3-5 of these additional beds will be nightly available as a resource to law enforcement. As community care takers, law enforcement need a place to bring individuals who may not survive the night outside or in their vehicles. Please let us know if you have any questions.

We want to let you know our summer plans that are currently underway. We have a wonderful older gentleman named Ken (we call him Trip) who is volunteering his time, staying inside the Center to keep an eye on things. Trip has been such a great help!

We are open for showers, laundry, and food on Mondays, Wednesdays, and Fridays from 10:30am - 2:00pm. We are firm about no loitering at any time. Please call law enforcement if anyone is giving you a problem. You can also notify Tonya Horn directly (406-250-8652).

It is our hope that you see different ways that we work to be a good neighbor. We work with some challenging people who are in the middle of a crisis. This is challenging work, however, we do not want it to be challenging for you. We understand concerns and we hope you have found us to be responsive. Please let us know what we can do for you. Thank you for working with us!

Sincerely,

Jody Waggener  
Resource Coordinator  
Flathead Warming Center



Dear Neighbor,

In our focus on being a good neighbor, we want to maintain open communication with you. Tuesday, October 10th, we open our doors for our 5th winter season of overnight shelter. Through the end of April, we will be open nightly, 6:00pm - 10:00am. We try to remain open for the entire day on Thanksgiving, Christmas, and New Year's Day.

We remain low-barrier, but NOT low-standards. A person's stay is determined by their behavior. This season, we are adding an additional layer of accountability. In order to stay beyond seven nights of emergency shelter, our guests must meet with our social worker and peer support specialist to engage in a deeper assessment and to participate in developing a personalized "Roadmap" out of homelessness. Those who continue to stay with us will meet with our social worker and peer support specialist weekly for continued support and accountability. Guests will be accountable not only for their behavior, but also each guest who stays beyond 7 nights will be accountable to engage in all the services and resources that we bring inside the center. We work hard to provide, on-site, the tools and resources that are needed to move beyond homelessness.

Every night, our guests sign an agreement regarding their behavior in and around the shelter. This agreement is not new. However, this season, each guest will also be watching a video regarding what is expected of them. We will be posting the agreement on our website soon, or if you are interested, we are happy to bring you a copy.

A guest who arrives early, or leaves late, will forfeit their bed. There can be no loitering on our property or neighboring properties! Guests may arrive no earlier than 5:30pm (we open our doors at 6:00pm) and can line-up beside our building on the northside. Guests are not to line up on the sidewalk. If they are early, they need to keep walking. Any disturbance in the neighborhood will result in a MINIMUM of forfeiting their bed for at least 7 nights, and in most cases the individual can no longer shelter with us when they are not being a good neighbor.

We do our best to teach our guests to be a good neighbor. Most of our guests try very hard. Others struggle with illnesses beyond our ability to meet their needs. Sadly, many of these individuals have been discharged from the hospital. We call law enforcement

Fall 2023 FWC Letter to Neighbors



# Letters of Neighbors

Spring 2022

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and it is tragic that several have nowhere to go to get well. As we continue to work with our leaders to fill several service gaps in our community, we will maintain a safe shelter. From time to time, we have to call law enforcement.

With every new season, there seems to be a learning curve for new guests. Please do not hesitate to give us a call if you experience an issue. We encourage you to take a picture, if you are able, for identification purposes.

It is always our goal to be responsive to your needs. We can work to quickly resolve issues when we are made aware.

We have two staff members working during our hours of operations. There is almost always someone at the shelter.

If you need us, please call:

- The shelter (406) 885-3042

- Our on-call cell (406) 885-6449 - New a new #  
- Director's cell (406) 250-8652

Currently, there are many misconceptions and false narratives in our community regarding the individuals we shelter. We welcome you to visit any time. We need our entire community to better understand who we shelter and how we do it.

We thank you for being a good neighbor.

Warmly,

  
Tonya Horn, Executive Director

Jody Waggener, Resource Coordinator, Montana Peer Support Specialist

Audrey Tri, Operations Coordinator, Social Worker



May 9, 2023

Dear Neighbor,

We would like to provide a brief update for you. Our winter season services have just wrapped up.

From October-May we have served:

- 354 individuals
- 1,731 guest loads of laundry
- + 8,700 meals served by our community
- 24 guest went to in-patient treatment
- 149 first responder referrals
- 73 new volunteers, 2011 volunteer hours on-site

Our summer season began Monday May 8th.

Mondays, Wednesdays, Fridays ~ 10:00 a.m. - 2:00 p.m.

Guests are welcome at the Warming Center for showers, laundry, a light lunch, community resources, and an opportunity to meet with a social worker.

Loitering rules still apply. Any Warming Center guest who loiters on our property or on a neighboring property loses services for a minimum of one day, one week, one month, or the entire summer season of services. Any disruption to a neighboring property is at least 7 nights out of services. We are on a continual mission to teach Warming Center guests how to be good neighbors.

Should a problem arise, please let us know as soon as possible.

Thank you for being a good neighbor.

Sincerely,

Tonya Horn  
Executive Director

Shelter phone number: (406) 885-3042  
Director cell: (406) 250-8652

Spring 2022 FWC Letter to Neighbors

Spring 2023 FWC Letter to Neighbors

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**Flathead Warming Center**

889 North Meridian Rd  
Kalispell, MT 59901  
406-885-3042

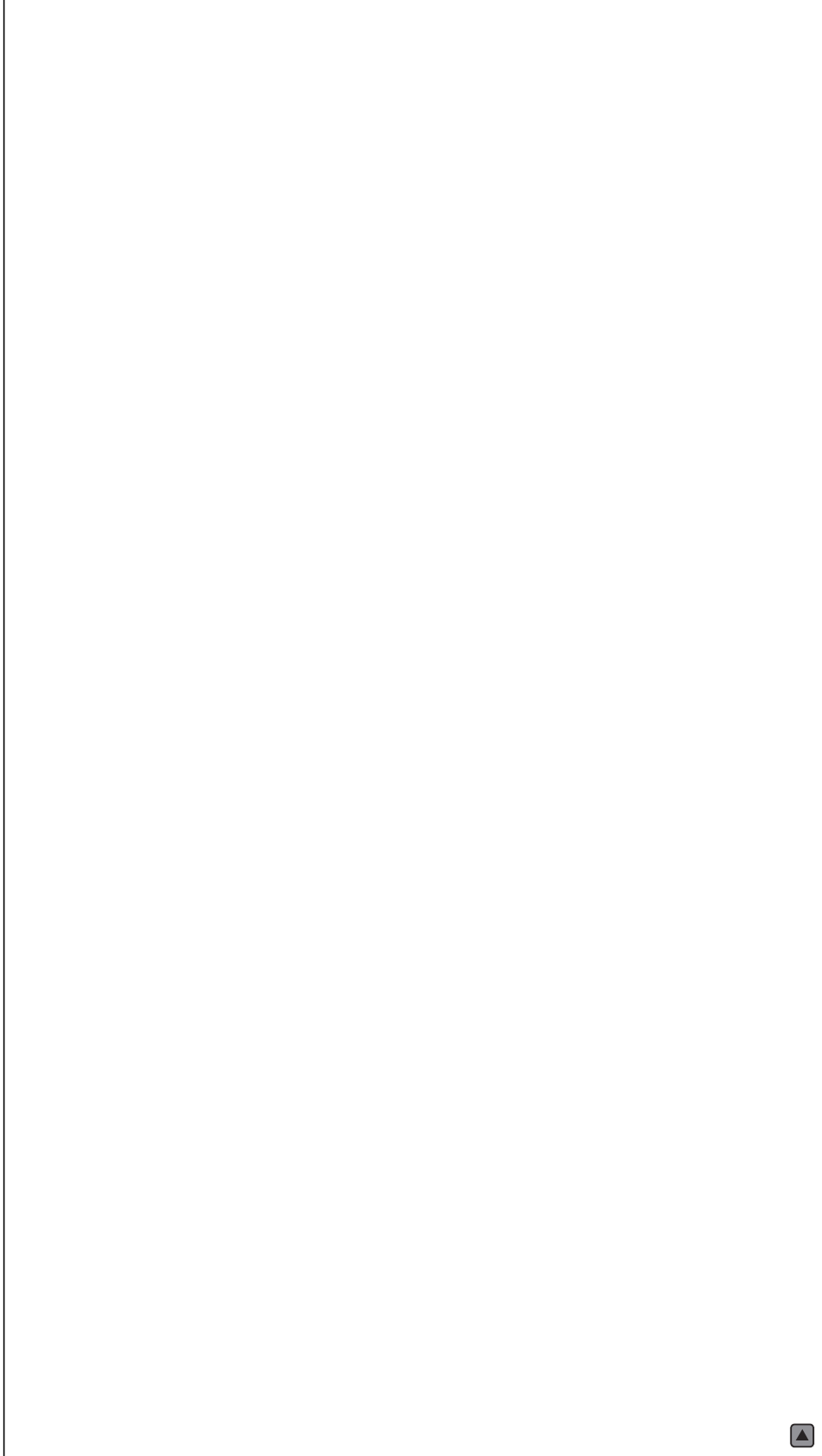
**FlatheadWarmingCenter.com**

# Assertion #9 Summary

- The Flathead Warming Center followed the City's lead in regards to outreach, notification, and engagement within 150ft.
- The only communication the Flathead Warming Center was provided is 150ft.
- It is arbitrary and capricious to hold the Flathead Warming Center accountable to servicing a "neighborhood" that was never defined, and then to hold them accountable for not servicing enough of the undefined population.

**Contrary to initial representations by the FWC, FWC has failed to be responsive or accountable to neighbors' concerns. This assertion is supported by public comments to Council.**

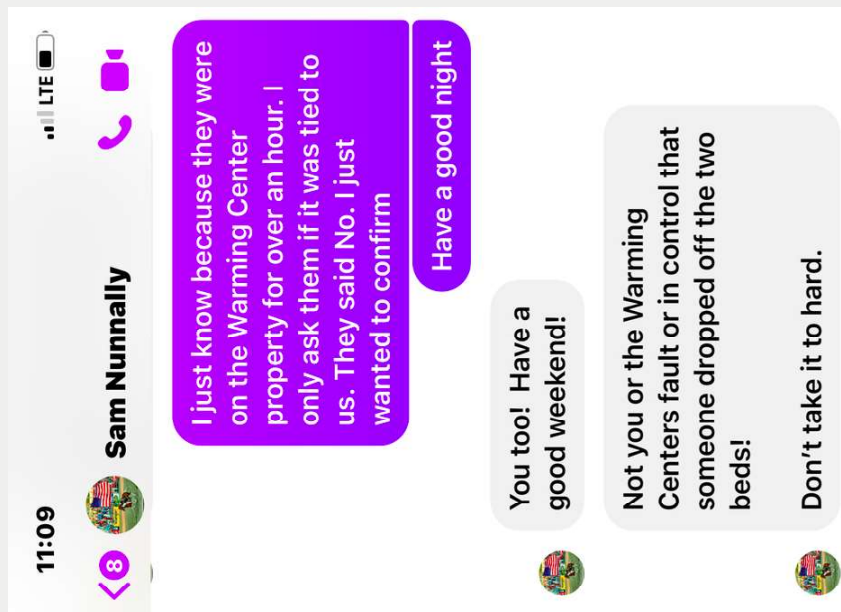
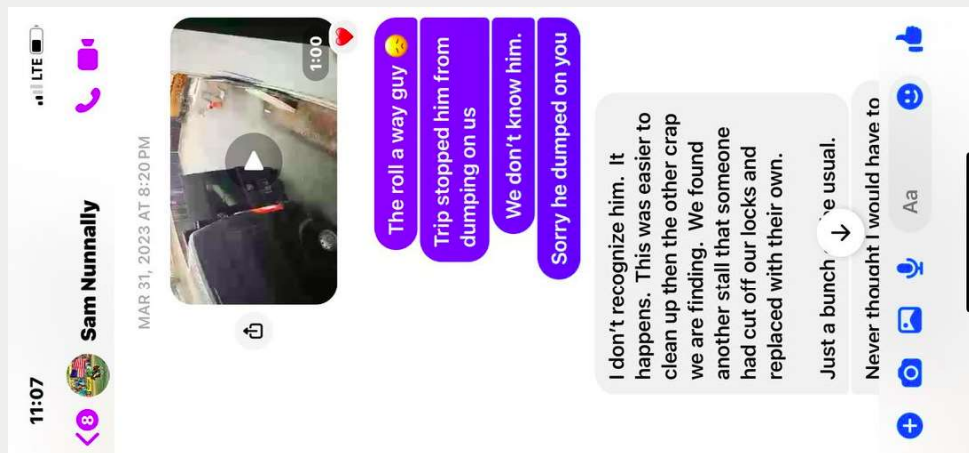


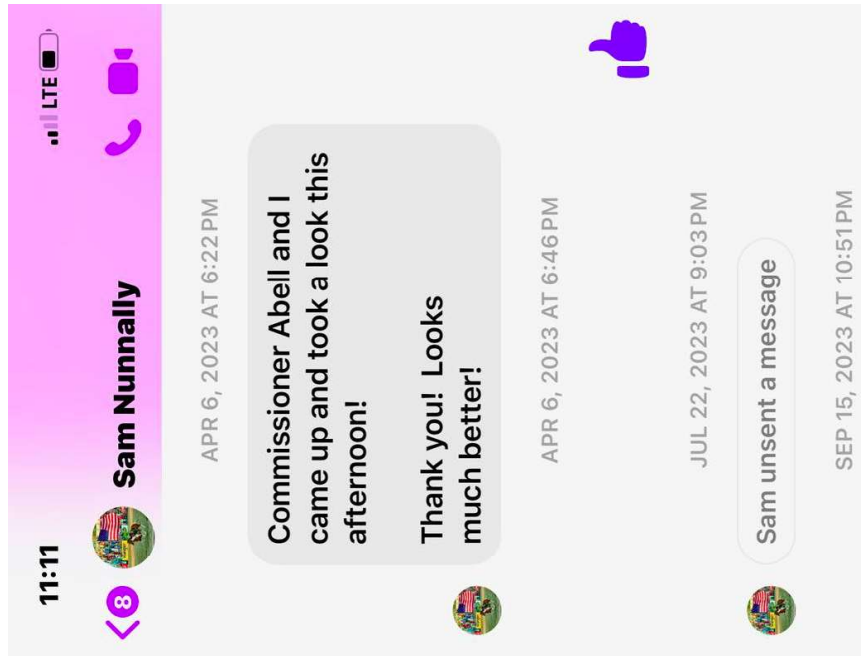
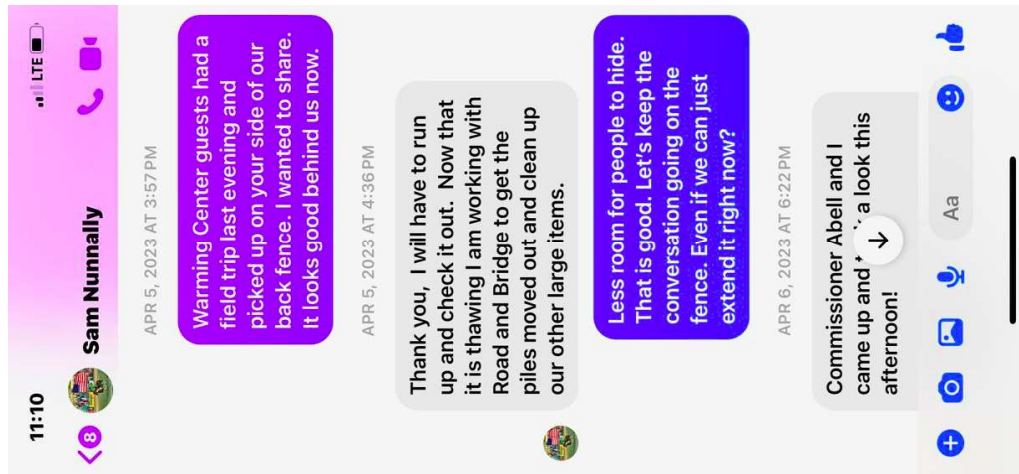


Interview of FWC Staff Member, Wednesday, April 24,

3

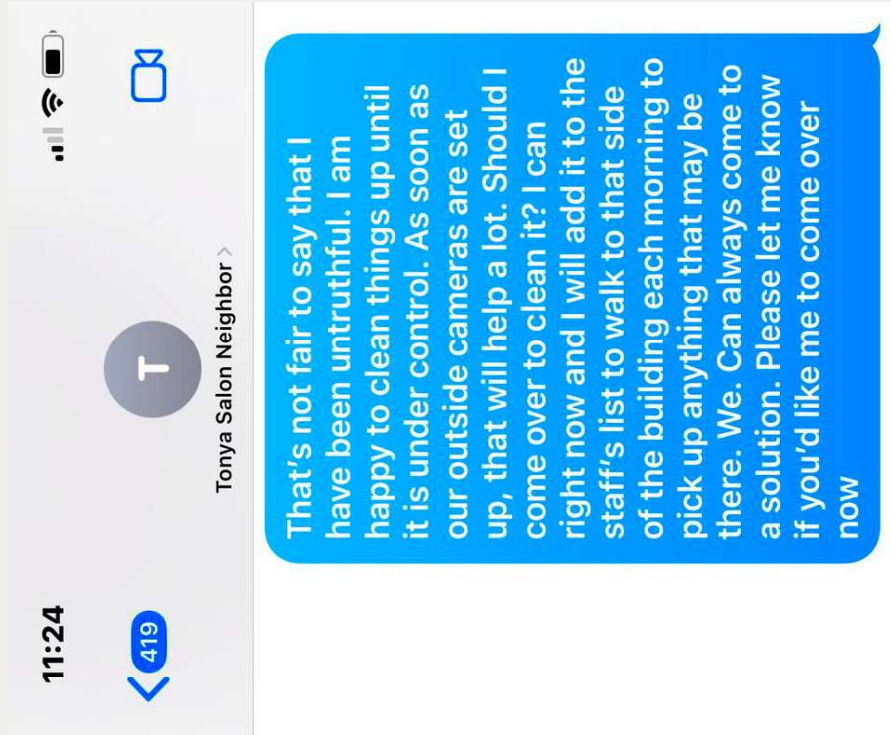
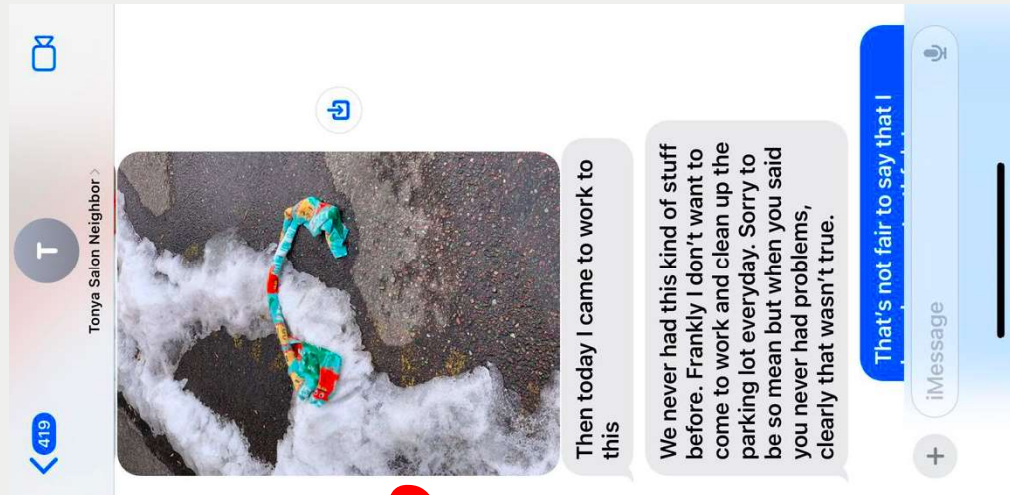
OVER 91  
MESSAGES  
EXCHANGED





3

**OVER 42  
MESSAGES  
EXCHANGED**






11:26

419

T

Tonya Salon Neighbor >

Feb 6, 2021 at 11:14 AM



Just went to the salon and this is outside just thought I'd let you know

Thank you. We will be by to pick it up in a few minutes.

11:27

419

T

Tonya Salon Neighbor >

Mar 18, 2021 at 1:04 PM

Thank you for calling the police yesterday. Doing so helped me to know who it was. He will not be allowed back at the Warming Center for the rest of this winter. (After we notify him tonight). He was told not to be anywhere on the property. I was able to see him on the camera in the middle of the parking lot. Had he been inside your shop? It doesn't matter because he will be asked tonight not to return to the Warming Center. The parking lot is enough for that decision to be made. I just want to know if also went inside. Again thank you. Calling the police helps me as I try to hold individuals accountable.


11:34

419

T

Tonya Salon Neighbor >

11:28



The gentleman you talked to yesterday is back today

Thank you. One of our volunteers just called me because she had seen him. I went outside and he was just walking at the other end of the sidewalk. We will be addressing that tonight


Okay thank u

11:33

419

T

Tonya Salon Neighbor >



Thank you. I passed your picture around, it's weird that we don't recognize him from anyone who stayed last night. Do I understand correctly that he is gone now?

Ok thank u

Let us know if it happens again so we can run over and catch him.

Okie dokie thank u

Case 9:24-cv-06141-DLC Document 1-39 Filed 10/08/24 Page 25 of 83



Jan 26, 2022 at 8:25 PM

Good evening I have been meaning to text you this for the past month. I just want to let you know that There has not been any problems this winter so far and that has not gone unnoticed. We appreciate you really working to be a good neighbor to us. Hope all is well.

Oh by the way this is Tonya Atlee from North Meridian Salon

3

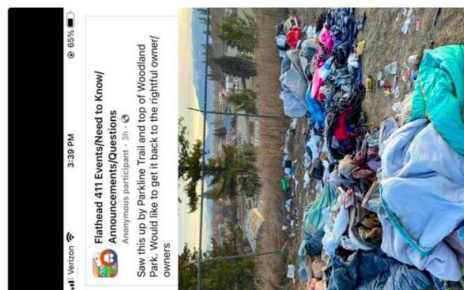
Hello Chief and Sheriff,

I do not know who to pass this information along to and I don't know what you can do with it. However, this is a group that we should all be aware of. They are not allowed (for quite some time now) at the Warming Center, based on their behaviors. They are just a part of a running list of those who are not allowed at the Warming Center. I have seen more and more from our no return list on the jail roster list. Which tells me that our list is correct. Most are addicts and wouldn't take the help that we provide and a few are sadly mentally ill. It was reported to me that the group above made the mess in Woodland Park. Picture attached below. The gal who does Winter's Kitchen (Sunday feed in Depot Park), cleaned up the mess with a homeless gal helping. Lots of needles! Winter's Kitchen will no longer hand out clothing without tracking it. The Warming Center tracks supplies (including clothing and sleeping bags) that we give. We cut individuals off in an effort to prevent such a mess and disrespect to the community. A few individuals on this list have recently been in jail. If there is any way that we can provide information about behaviors in the community when things like this arise? We want to help to hold individuals accountable. Both law enforcement and the Warming Center get pulled into the blame for behaviors of some of the homeless. A few ruin the reputation of all.

We do not support these behaviors or individuals anymore than you do.

On another note, we are recently hearing of incidents where homeless individuals are being randomly "sucker punched". Every time, we strongly encourage a report be made to law enforcement. You can't do anything unless you know! Finally, the Warming Center would welcome a member of law enforcement on our board. We meet monthly, the 2nd Monday of the month from 10am-noon. Would you allow it and do you have a recommendation? If not at a board level, I am able to meet regularly with a member of your team. I believe that collaboration can make our community stronger.

Thank you for your time.



Email to Police Chief and Sheriff from Tonya Horn  
Identifying persons of interest

# Assertion #3 Summary

The City's assertion that FWC has failed to be responsive or accountable to neighbors' concerns is not accurate.

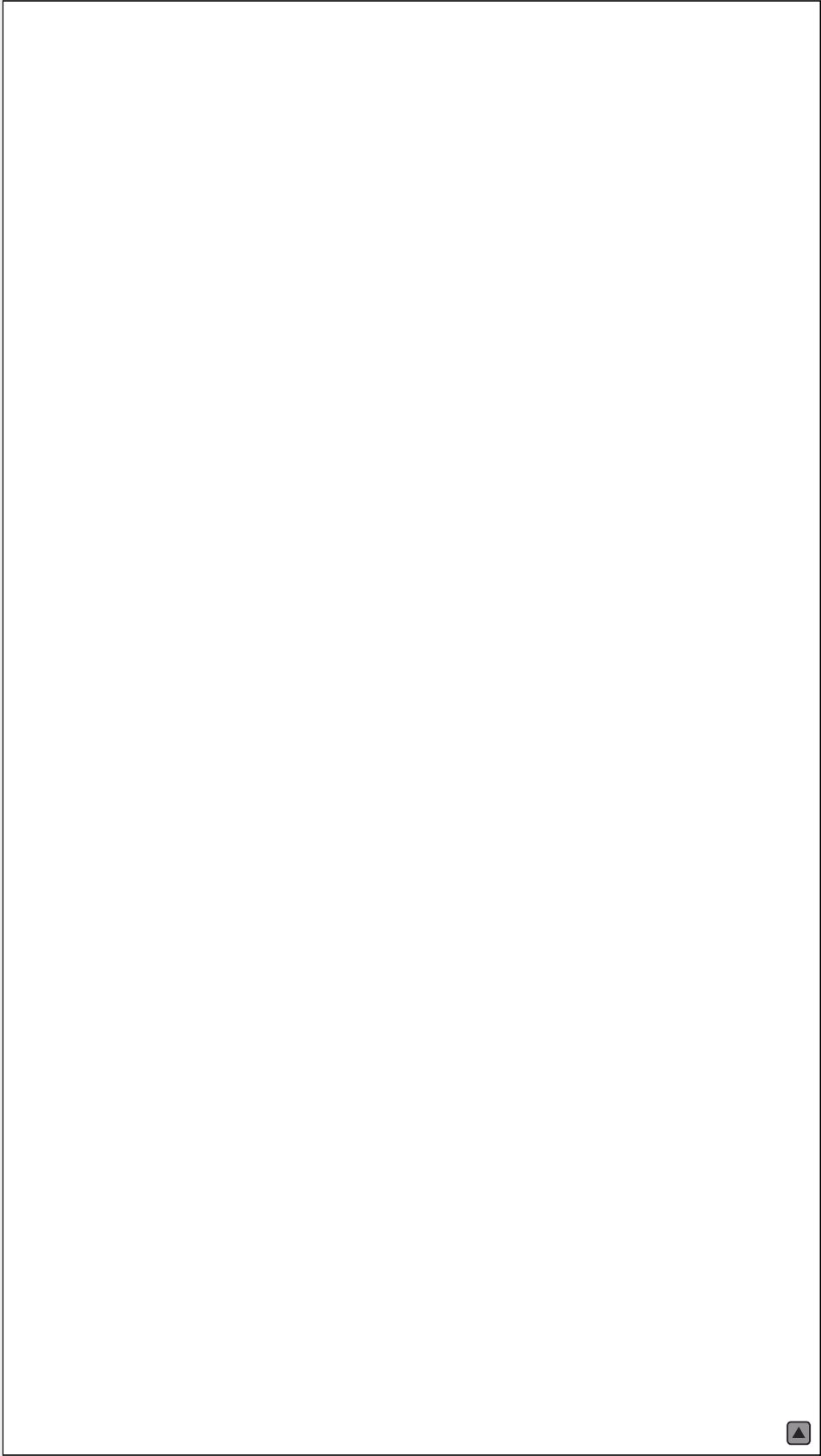
Contrary to initial representations by the FWC, FWC has not been a good neighbor as its patrons have left garbage and needles, defecated, and loitered on the property and in the neighborhood and have failed to be “protective of. . . the neighborhood.” Additionally, FWC has not been responsive and has been dismissive of neighbor complaints. Some of those in the neighborhood stated they did not know Ms. Horn or have her contact information. This assertion is supported by public comments to Council and law enforcement call data.

6

**FWC has been a good neighbor in every way within our capacity to be so:**

1. We educate all our guests and hold them responsible about how to be a good neighbor.  
(Occupancy Agreement).
2. We provide three large trash bins on property to prevent trash being discarded on nearby properties.
3. Organized trash pickup efforts around the community
4. Helped law enforcement identify individuals when photos were provided
5. We enforce rules to guests that prohibit them from being onsite early or late, we disincentivize them from loitering, we encourage them to take the bus when it is available.





City Planning Session: Tonya Horn  
10/13/2020

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**Flathead Warming Center**

889 North Meridian Rd  
Kalispell, MT 59901  
406-885-3042

FlatheadWarmingCenter.com



## Assertion #6 Summary

The City's assertion that FWC has not been a good neighbor and has failed to be "protective of ... the neighborhood" is not accurate.

1

Contrary to initial representations by the FWC, FWC has increased the number of homeless individuals in the surrounding area. This assertion is supported by public comments to Council.

**Safety**

The Flathead Warming Center will not introduce homelessness into the neighborhood. Just by observation from the parking lot of 889 N. Meridian, unsheltered individuals can be seen walking down the street. Most people would not even know that these individuals are homeless. South of the property sits the Fairgrounds. From time to time, individuals have sought shelter from the cold in the horse stalls on the Fairgrounds property. Sheltering individuals and families provides safety not only to

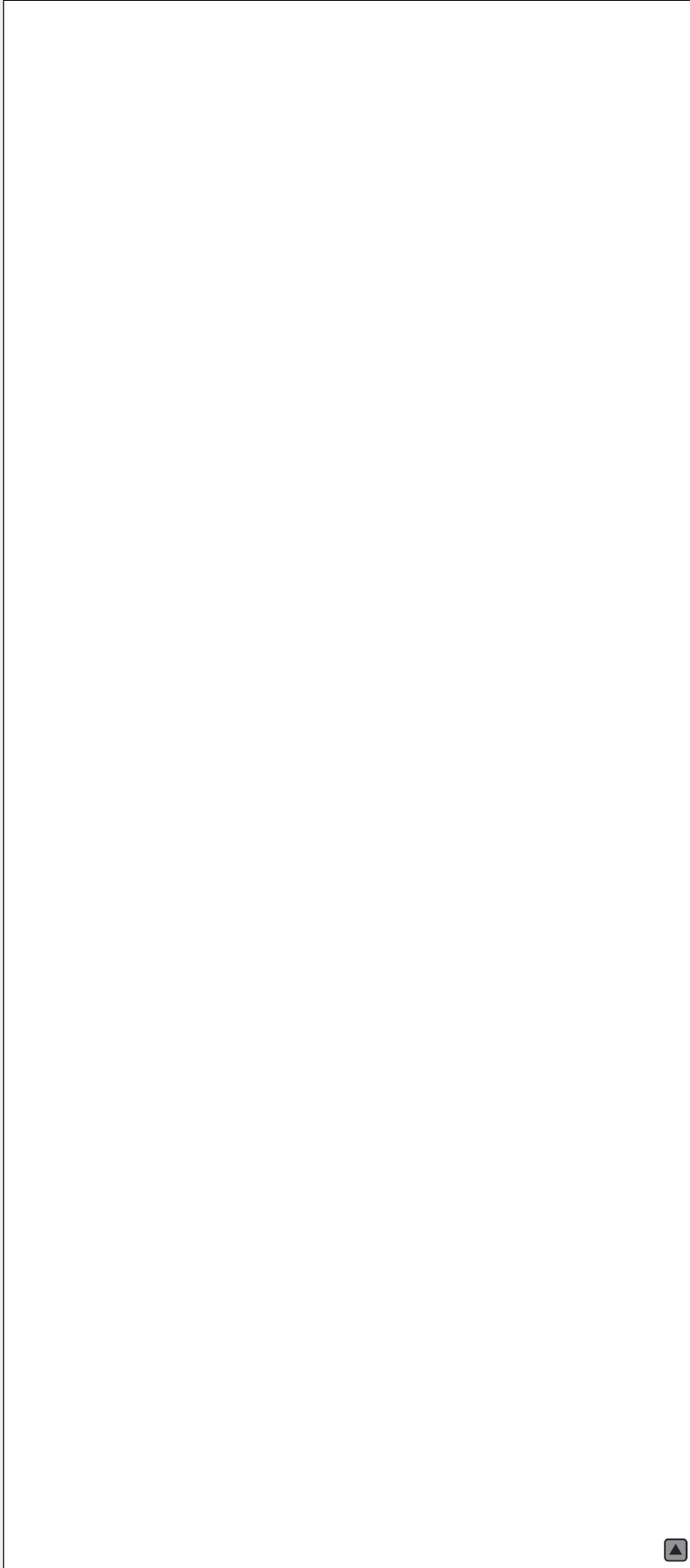
-Ms. Horn's Application for FWC Conditional Use Permit, Page 4.



“We are not introducing homelessness to the Meridian community;  
ho



**Tonya's Comment to City Council, 11/02/2020**



City Council Meeting: November 2nd, 2020



INCREASE  
vs.  
INTRODUCE

1

There was prevalence of homelessness in the area prior to the opening of the center's doors in 2020.

Therefore, the opening of the Flathead Warming Center's doors did NOT introduce homeless into the area, which aligns with the promises made in Mrs. Horn's conditional use permit application.

1

Homelessness in the entire state of Montana has increased dramatically over recent years.

"The most recent [Annual Homelessness Assessment Report](#) shows that Montana saw a 551% increase in its unsheltered population, which is the steepest rise in the country between 2007 and 2023" (The U.S. Department of Housing and Urban Development).



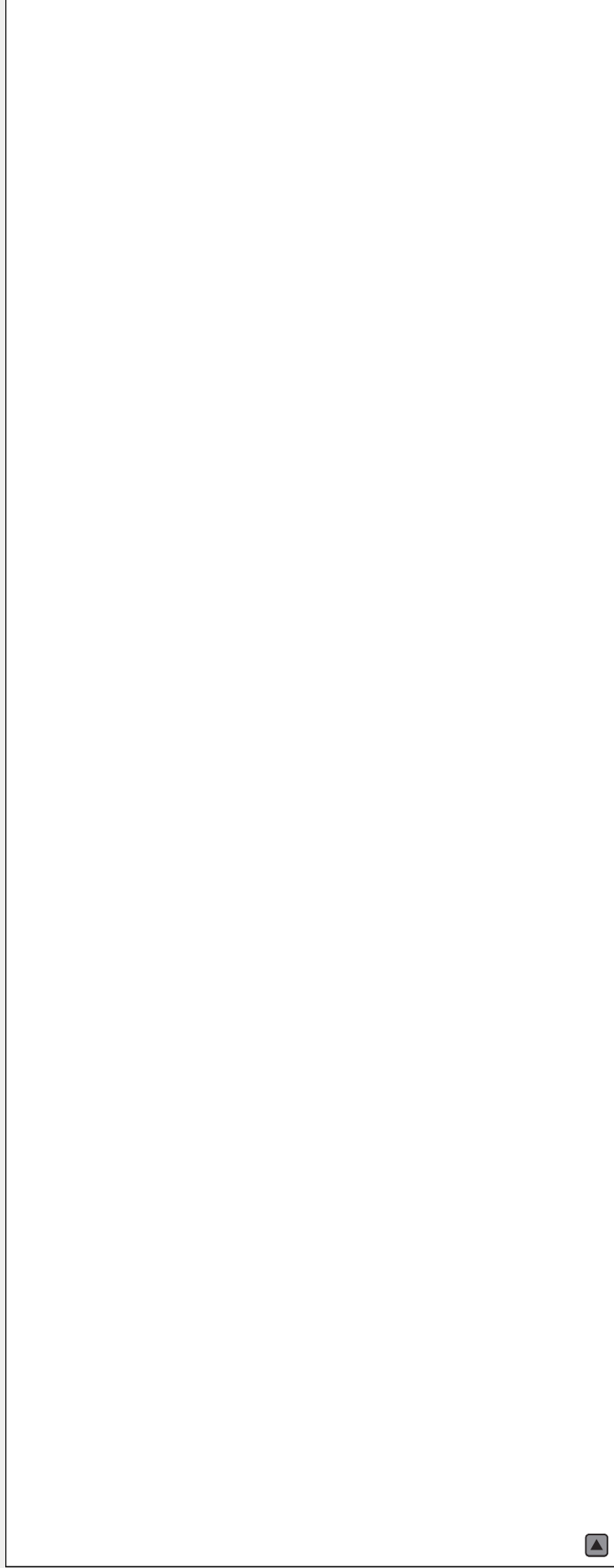
1

Important to acknowledge that there are many factors contributing to a rise in **visibility** of homelessness due to a number of reasons including:

- Closing of low-cost rental options
- Lack of housing and living affordability
- “Moving along” of homeless individuals towards downtown area
- Closure of mental health services and centers
- Lack of alternative low-barrier services
- Changes in involuntary commitment petitions (2014 vs. 2024)



**“There will be a Not In My Backyard sentiment no matter where this is proposed... It would be difficult to find something more appropriate.”**



Planning Board Meeting October 13, 2020, Planning Board Member

# Assertion #1 Summary

The Conditional Use Permit application said FWC would not INTRODUCE homelessness **because homeless are already in the area** .

We do not contend that there has been no increase, but we do feel strongly that the cause is not justifiably attributable to the FWC, nor have we been given the evidence that justifies this assertion.

Contrary to initial representations by FWC, the presence of FWC has increased law enforcement calls in the area. This assertion is supported by the difference in the number of calls to law enforcement when FWC was open compared to when it was closed.

Excerpt from the introduction of the Mayor's Homeless Task Force 2020

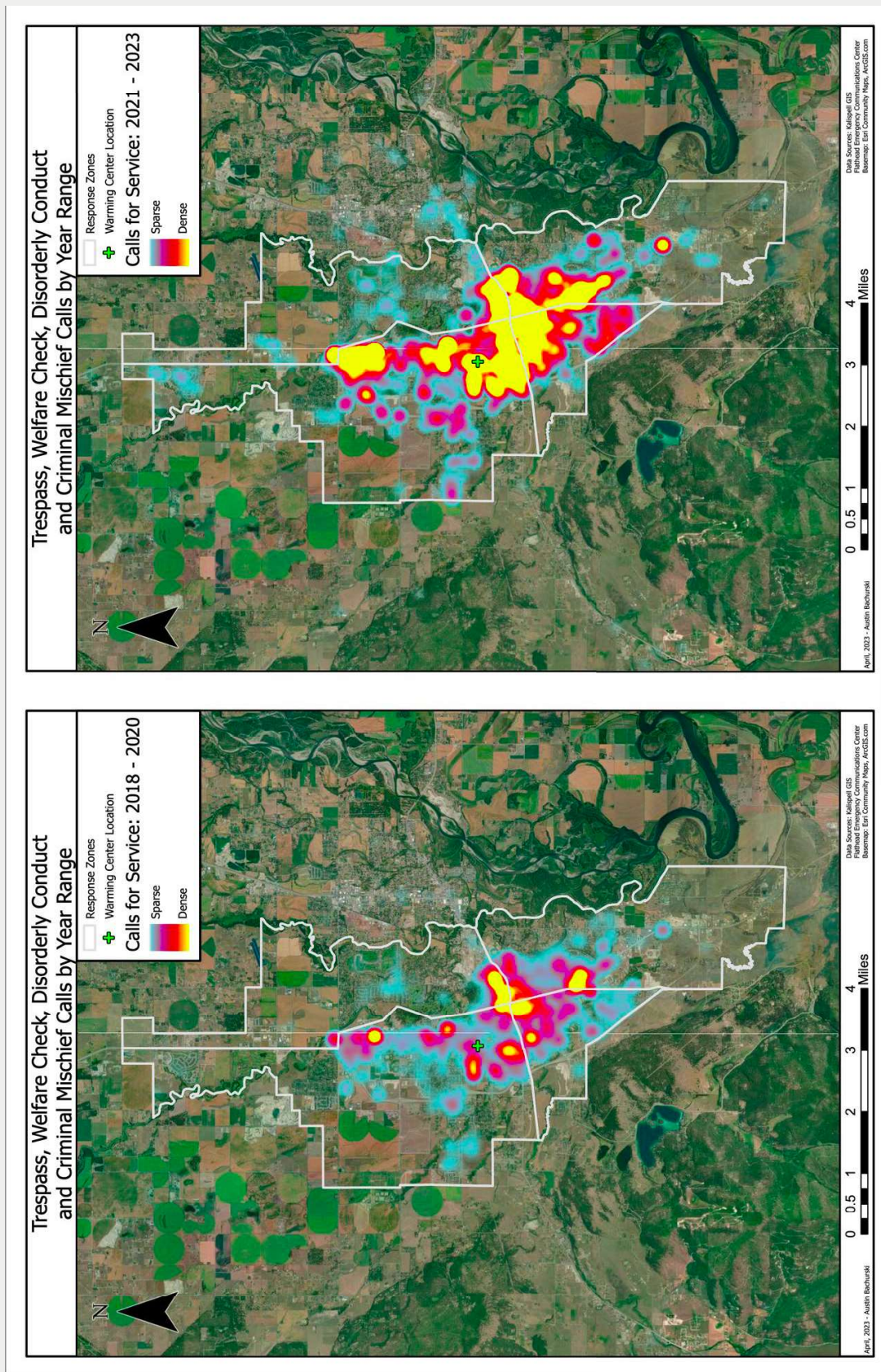
*“One of the first things taught in introductory statistics textbooks is that correlation is not causation. It is also one of the first things forgotten.”*

*Thomas Sowell*

*Correlation is not  
causation*

City Council Meeting: November 2nd, 2020







Conditional Use Permit, City Report to Council states the following services are available and adequate to serve the needs of the use as designed and proposed.

(c) That the following services and facilities are available and adequate to serve the needs of the use as designed and proposed:

1. Sewer;
2. Water;
3. Stormwater drainage;
4. Garbage collection;
5. Fire protection;
6. Police protection;
7. Streets;
8. Sidewalks and bike trails; and
9. Other public services.

Findings established by the City's report

#### 4. Neighborhood impacts:

- a. Traffic: There is minimal impact on traffic in connection with the proposed use. They expect a few vehicles from people seeking shelter. Eagle Transit and church vans will provide service as well, which would tend to minimize traffic impacts.
- b. Noise and Vibration: The primary use will occur inside the building. Outdoor use is limited to monitored breaks in the courtyard. As a supervised facility, noise should be kept to a minimum.
- c. Dust, Glare, and Heat: The use of the property would not generate any unreasonable dust, glare, and heat.
- d. Smoke, Fumes, Gas, or Odors: The use of the property will create minimal additional smoke, fumes, gas and odors.
- e. Hours of Operation: The Center intends to operate from 7:00 pm to 7:00 am during the coldest months of the year, generally from October through April.

## Assertion #4 Summary

In summation, I suggest the City's assertion that the FWC represented there would not be an increase in law enforcement is not accurate and that no such representation was made.

Additionally, I suggest the data provided by the City lacks sufficient detail to attribute calls for service in the surrounding area directly to the FWC.



Planning Board Meeting, October 13, 2020, Planning Board Member- Can't imagine these individuals from the Board supporting a cause that would be detrimental to the community.

28

- 2** Contrary to initial representations by the FWC, the surrounding neighborhood has seen an increase in loitering in the area. This assertion is supported by public comments to Council.
- 8** FWC initially represented that loitering was a serious issue that would be addressed accordingly. Recently, however, FWC has minimized the seriousness of the loitering issues in the neighborhood. This assertion is supported by public comments to the Council.

“The flow of individuals in and out of the neighborhood is very important. So much so that we have policies and procedures to prevent loitering on the property as well as in the neighborhood. Individuals forfeit their opportunity for services if they come early or leave late from the property and from the neighborhood.”

(Application for Conditional Use Permit, Tonya Horn. Section 3 - A.)



### **1. I must be a good neighbor, or I will be asked to leave.**

- No loitering on this property or a neighbor's property. I may not be on the property before 5:30 pm. or after 10:00am. (hours of operations)  
No hanging out when the Center is closed.

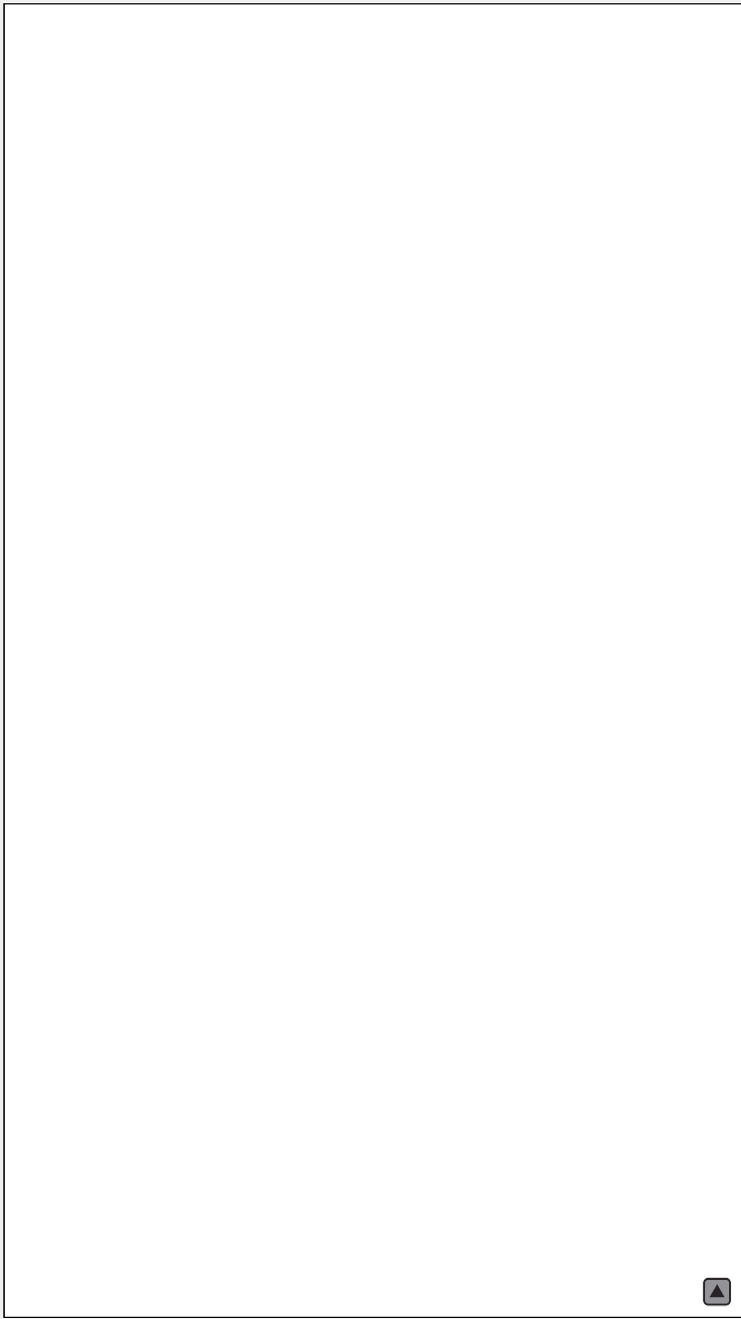
*Those who loiter will lose their bed.*

- I will not leave/ stash belongings or trash anywhere outside or in the neighborhood.
- I understand that anyone who has poor/ aggressive behavior on neighbor properties/ businesses will lose their bed, potentially for the remainder of the season. We all must be good neighbors to keep the Warming Center open!
- I understand that failure to follow this agreement will result in being asked to leave. Law enforcement may be notified to ensure that I leave the property and neighborhood. Your No Return Status (NRS) will DOUBLE in time if Law Enforcement is called.
- I understand the importance of being grateful. I agree to care for those who care for me. I will act in ways that protect the Center and neighborhood.
- Guests of the Warming Center are to participate in making the shelter a safe and enjoyable experience for all.

**We are a community! We all contribute! We all help out!**

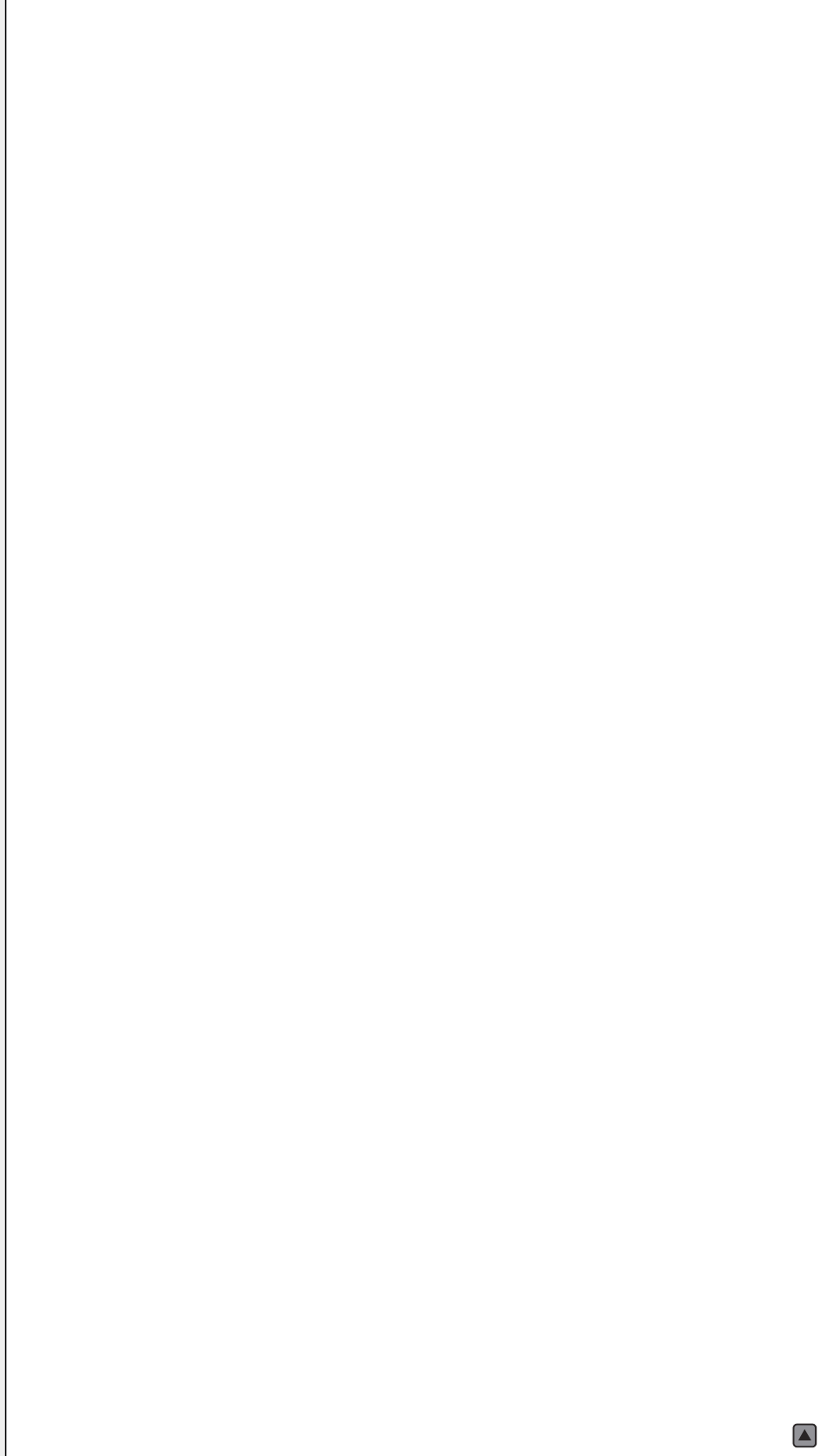
FWC Occupancy Agreement 2023





FWC Guest Orientation Video

**We are low barrier, we are NOT low standard.**



Interview of FWC Staff Member, Wednesday, April 24,

# Assertion #2 & #8 Summary

The City's assertions that FWC said loitering would not increase and that FWC minimizes the seriousness of loitering are both false.

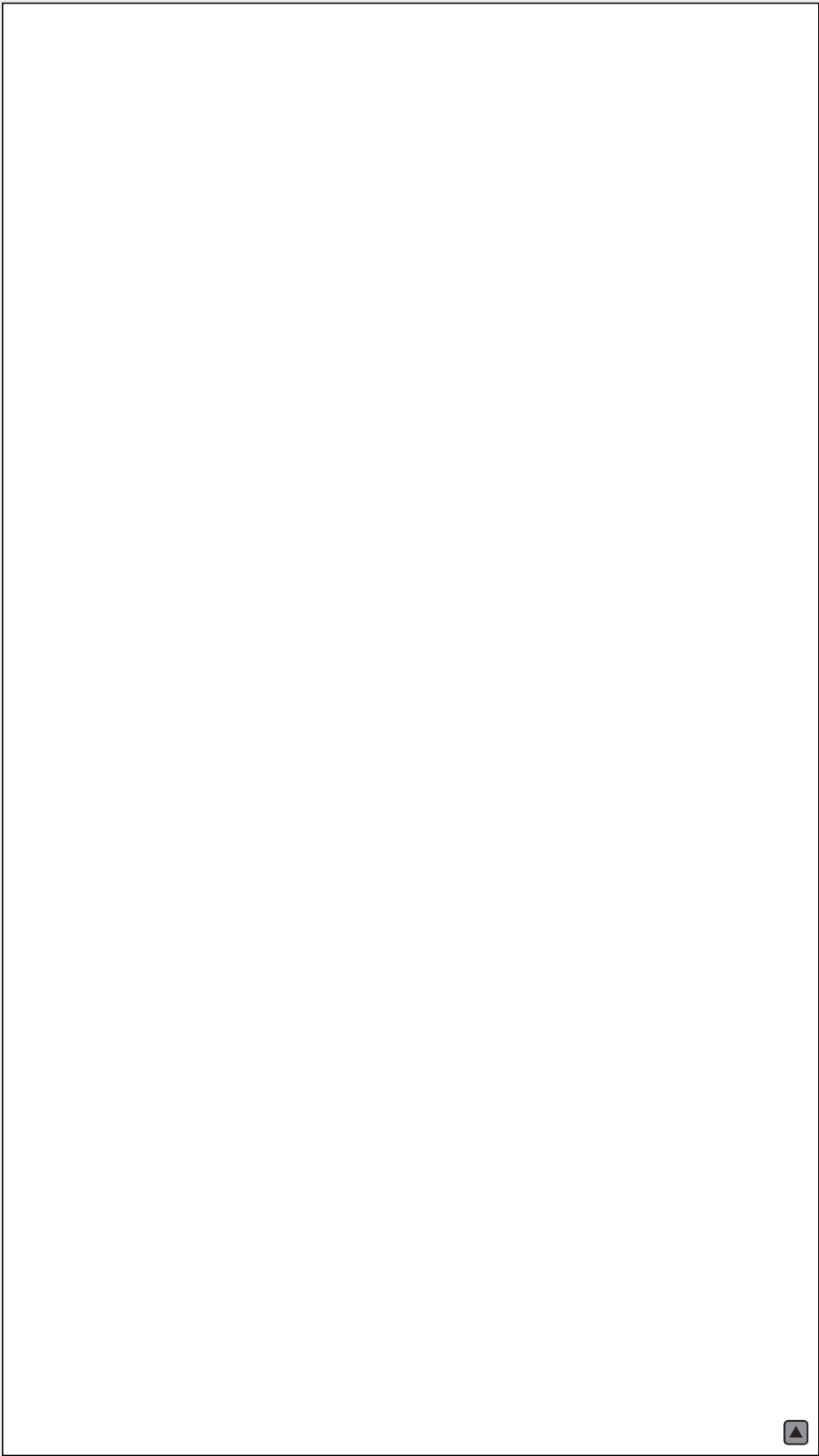
Contrary to initial representations by the FWC, transportation of its patrons into and out of the neighborhood has not been provided. This assertion is supported by public comments to the Council.


The flow of individuals in and out of the neighborhood is very important. So much so that we have policies and procedures to prevent loitering on the property as well as in the neighborhood. Individuals forfeit their opportunity for services if they come early or leave late from the property and from the neighborhood. We are not a homeless camp/hangout and the neighbors need to have confidence in this. We believe this to be so important that we do all we can to support the success of our policies against loitering. Last season we partnered with Eagle Transit to provide our customers morning transportation out of the neighborhood to the Salvation Army for breakfast. It is our intent to do the same and to add the use of Church ministries to bring guests to the shelter from Feeding the Flathead dinners.

FWC Conditional Use Permit Application, Page 2 Section 3-A)

(j.) Our hours of operation are to be determined. Typically we operate our services from 7pm - 7am throughout the coldest months of the year (October - April). The exact times of operation will be determined by the times that we are able to partner with supportive services, such as transportation into and out of the neighborhood.

FWC Conditional Use Permit Application, Page 2 Section 3-J)





1333 Willow Glen Drive  
Kalispell, MT. 59901  
**406-758-2426**  
[www.mtnclimber.org](http://www.mtnclimber.org)

**PAID**  
JUL 2 2024  
in full  
K.O

TO: Flathead Warming Center  
ATTN: Tonya Horn  
889 N Meridian Rd, Kalispell, MT 59901

DATE: July 2, 2024

Description	Month	AMOUNT
2023 - 2024 Count for rides priced at \$1 a ride	Oct	\$246.00
	Nov	\$467.00
	Dec	\$498.00
	Jan	\$589.00
	Feb	\$517.00
	Mar	\$486.00
	Apr	\$345.00
	May	\$13.00
		<b>BALANCE DUE \$3,161.00</b>

Paid in full

Thank You for riding with  
Mountain Climber!  
😊



# Assertion #7 Summary

The City's assertion that transportation of its guests into and out of the neighborhood has not been provided is false.

**Contrary to initial representations by the FWC, FWC services communities beyond the Kalispell community. This assertion is supported by public comments to Council and public records including statements from City of Whitefish.**

<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Pacific Islander <input type="checkbox"/> White <input type="checkbox"/> Do not know <input type="checkbox"/> Refuse	<input type="checkbox"/> Non-Hispanic/Non-Latino <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> Do not know <input type="checkbox"/> Refuse	<input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Other <input type="checkbox"/> Do not know <input type="checkbox"/> Refuse
---	---	---

**LENGTH OF TIME ON STREET, IN AN EMERGENCY SHELTER, OR SAFE HAVEN HOMELESS = Sleeping on the streets, in an emergency shelter or Safe Haven, a supportive housing program for the homeless. STREETS = Sleeping outdoors, vehicle, camper, abandoned building, public area, or other place not meant for human habitation. NOTE: Staying with friends or family, couch surfing, or in a hotel paid without an emergency voucher is *not* defined as homeless for the following questions.**

1) Where was your prior living situation? \_\_\_\_\_

2) If you stayed on the streets, emergency shelter, or in a Safe Haven last night, what is the approximate date you started sleeping on the streets, in an emergency shelter or safe haven? Date \_\_\_\_\_

3) How many periods of time have you been homeless (on the street, emergency shelter or Safe Haven) in the last 3 years (including this time)?  
☐ Never in the last 3 years ☐ 1 (only this time) ☐ 2 ☐ 3 ☐ 4+ ☐ Do not know ☐ Refuse

4) What is the total # of months you have been homeless (on the street, emergency shelter or Safe Haven) in the past 3 years? (any single day or part of a month spent homeless should be counted as one month)? Circle one  
 0 1 2 3 4 5 6 7 8 9 10 11 12 13+ ☐ Do not know ☐ Refuse

#### EMPLOYMENT/INCOME INFORMATION

Are you employed? ☐ Yes ☐ No

These 3 questions help us specifically with funding:

How long have you lived in the Flathead Valley? \_\_\_\_\_

**IF less than 12 months:**

1. Where did you live prior to Flathead Valley? \_\_\_\_\_

2. Why do you live in the Flathead Valley? \_\_\_\_\_

3. Have you lived here before? \_\_\_\_\_

3. How did you hear about the Warming Center? \_\_\_\_\_

5

70% of the Flathead Warming Center's overnight guests, have lived in the Flathead for a year or more.

100% of guests have a significant tie to this community as a natural support center either through family or work.

8% do not have ties or a significant reason to be in the Flathead.

99%

HAVE SIGNIFICANT TIES OR HAVE LIVED IN THE  
FLATHEAD.

“Whereas, neighboring communities don’t provide for these services, Kalispell is the HUB for needed valley wide social services.”

City policy issues and decisions of the past have been very favorable to the homeless/shelter community by being flexible with zoning and conditional use permits to make it easier for stakeholders to maneuver within the city. Whereas, neighboring communities don’t provide for these services, Kalispell is the HUB for needed valley wide social services. Sparrows Nest, Ray of Hope, Warming Shelter, Peggy’s House, Youth/Group Homes, Samaritan House, etc. have all benefited from the City’s proactive stance in recognizing the community need. This was further demonstrated during the creation of the Emergency Shelter with a temporary zoning amendment during Covid and subsequently a low barrier shelter as a recommendation of the Mayor’s Homeless Task Force, where demand for additional unsheltered housing was identified. The shelter protects people from the elements and connects them to needed resources. Although there is a necessary public process, history has shown that the public process was not used as a barrier for entry and this is exhibited in past approvals for these uses providing needed services for the most underserved in our community.

## Warming Shelter a key step in addressing homelessness

November 8, 2020 12:00 AM

On Monday, the Kalispell City Council unanimously green-lighted a zoning text amendment and conditional-use permit that will allow the Flathead Warming Shelter to move forward with establishing a permanent location off North Meridian Road.

The City of Kalispell has been proactive in providing varying residential housing types besides just single-family zoning. Within the growth policy area, the City has 6,976 acres of land where residential use is allowed. Of that area, **80.3% allows for multiple units on the property** (41.9% allows a duplex or an accessory dwelling unit; 38.3% also allows multi-family). **100%** of zones with residential uses allow for some form of housing in addition to traditional detached

“Sparrows Nest, Ray of Hope, Warming Shelter, Peggy’s House, Youth/ Group Homes, Samaritan House, etc have all benefited from the City’s proactive stance in recognizing the community need.”

City of Kalispell application for HUD grant funding ~ October 16, 2023

“We further recognized that many of the County’s homeless come into Kalispell to access services and resources which adds to the city’s burden on limited resources and services” .

**The Mayor’s Task Force Report** was delivered to City Council just weeks prior of the Council’s approval of the FWC CUP.

5

EACH SEASON  
LESS  
THAN

GUESTS  
OF THE FWC

ARE REFERRALS FROM  
WHITEFISH



5

----- Forwarded message -----

From: Flathead Warming Center FWC <[flatheadwarmingcenter@gmail.com](mailto:flatheadwarmingcenter@gmail.com)>

Date: Tue, Nov 14, 2023 at 11:40AM

Subject: Flathead Warming Center

To: <[bkelch@cityofwhitefish.org](mailto:bkelch@cityofwhitefish.org)>, Jordan Venezio <[jvenezio@kalspell.com](mailto:jvenezio@kalspell.com)>, Brian Heino <[bheino@flathead.mt.gov](mailto:bheino@flathead.mt.gov)>

Hello.

This email is NOT intended to fuel anyone's agenda or to fuel the political storm. I will leave it up to you if you decide to share with the respective Mayors or the City Managers, or Commissioners. This email is to start a discussion for a solution.

I am in support of the municipalities getting together for a summit to discuss homelessness! I will forever believe that we can find solutions TOGETHER!

Sunday night, an individual was brought to the Flathead Warming Center. My understanding is that this individual was intoxicated on Amtrak and removed from the train. He was brought to the Flathead Warming Center for one of our first responder beds.

Here is a paste from our notes:

**"Henry Neighbors** 911 delivery from Whitefish Police. Intoxicated. Made a bit of noise in the bunkroom about midnightish when he arrived. He was easily redirected to where he was and why he needed to be quiet in the bunk room. He then went to sleep without further incident."

I am not certain if Whitefish PD brought the individual in or not. Our staff is not the best at identifying what officer is from where.

My understanding is the next day this individual went to the Kalspell Library. KPD was called for a disturbance. KPD attempted to bring him back to the Flathead Warming Center. He was again intoxicated and had caused a disturbance at the library. We said no.

I believe he was going to be taken to the hospital.

The WPD can bring individuals to the Flathead Warming Center, just as KPD and the Sheriff's Departments do. And all have been known to bring in individuals who are intoxicated. (Please note: We can NOT accept those who cannot take care of themselves. This does not seem to be the case we serve the entire Flathead. Last winter season, our first responder beds, saved as a resource for Flathead first responders, were used 149 times. Very few, less than 10, of these individuals came from Whitefish. The large majority were brought or referred to us by KPD, Sheriff's Dept (off dispatch), or Logan Health Kalspell.

I do see that bringing in an individual into Kalspell can be a burden on Kalspell. In this one situation, just one officer alone on Monday having to deal with this individual. It is costly to Kalspell.

We can only fix this problem TOGETHER.

I believe Amtrak needs to allow an individual back onto the train (the next day?) Who can be a part of the solution to get the individual back to the train? How can we help?

This idea may not be possible. I get it. However, I am confident that when we all work together we can find a solution and create a process that works for our entire community. Especially if we all stop the blame game and can get the politics out of it.

The Flathead Warming Center won't accept the blame. We are a resource for each of your departments. And, we are willing to be a part of the solution.

Below is my personal cell.

**Tonya Horn**

Executive Director

Flathead Warming Center

(406) 250-8652



Email from Mrs. Horn to City Officials, November 14, 2023.

## Assertion #5 Summary

The City's assertion that FWC stated it would not serve anyone outside of Kalispell is false, nor is it right to have that expectation.

# CUP APPLICATION

## CUP APPLICATION

"We propose a smaller privacy fence to create a courtyard just out the back north facing door. This is the door that will serve as the entrance to the Warming Center. There is purpose for this courtyard. Perception is very important in the management of a homeless shelter. During hours of operation, this private courtyard will be used for monitored outdoor breaks for our guests. Our guests will line up and exit exclusively from the private courtyard enclosed by a 6' privacy fence" (Application for Conditional Use Permit, Tonya Horn. Section 2-G.)

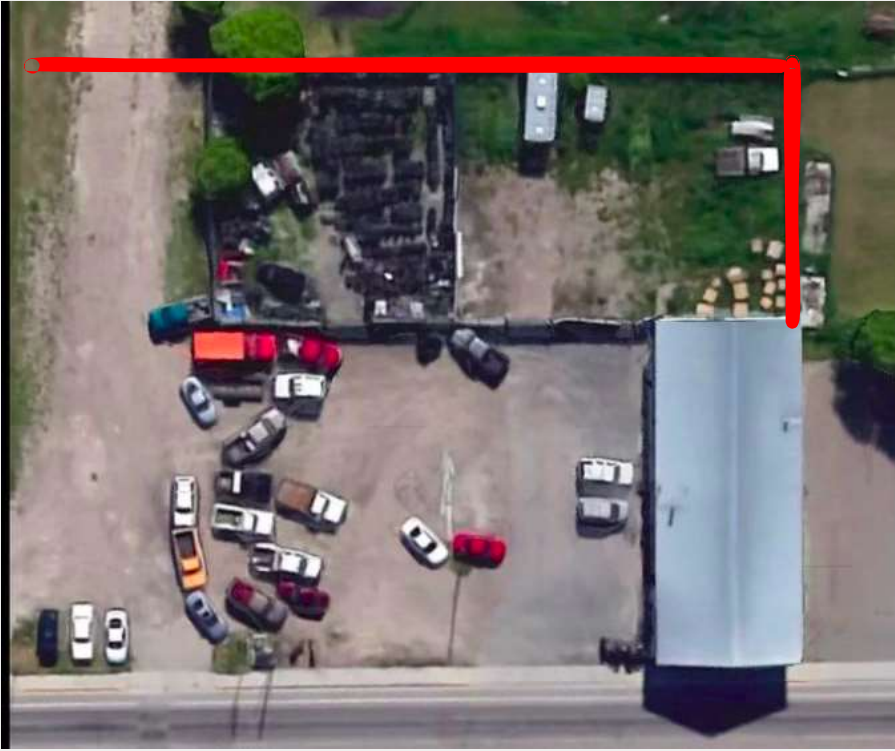




## CUP APPLICATION

"We intend to take measures to improve the current condition of all three lots, including the two neighboring lots that will not be used for shelter services. We will repair or replace the existing fence that borders the neighboring lot. We will control the weeds, plant grass and irrigate as necessary . Please see a drawing of a proposed decorative awning for the street side of the shelter" (Application for Conditional Use Permit, Tonya Horn. Section 2-H.)





**Drone picture of property before the  
FWC**

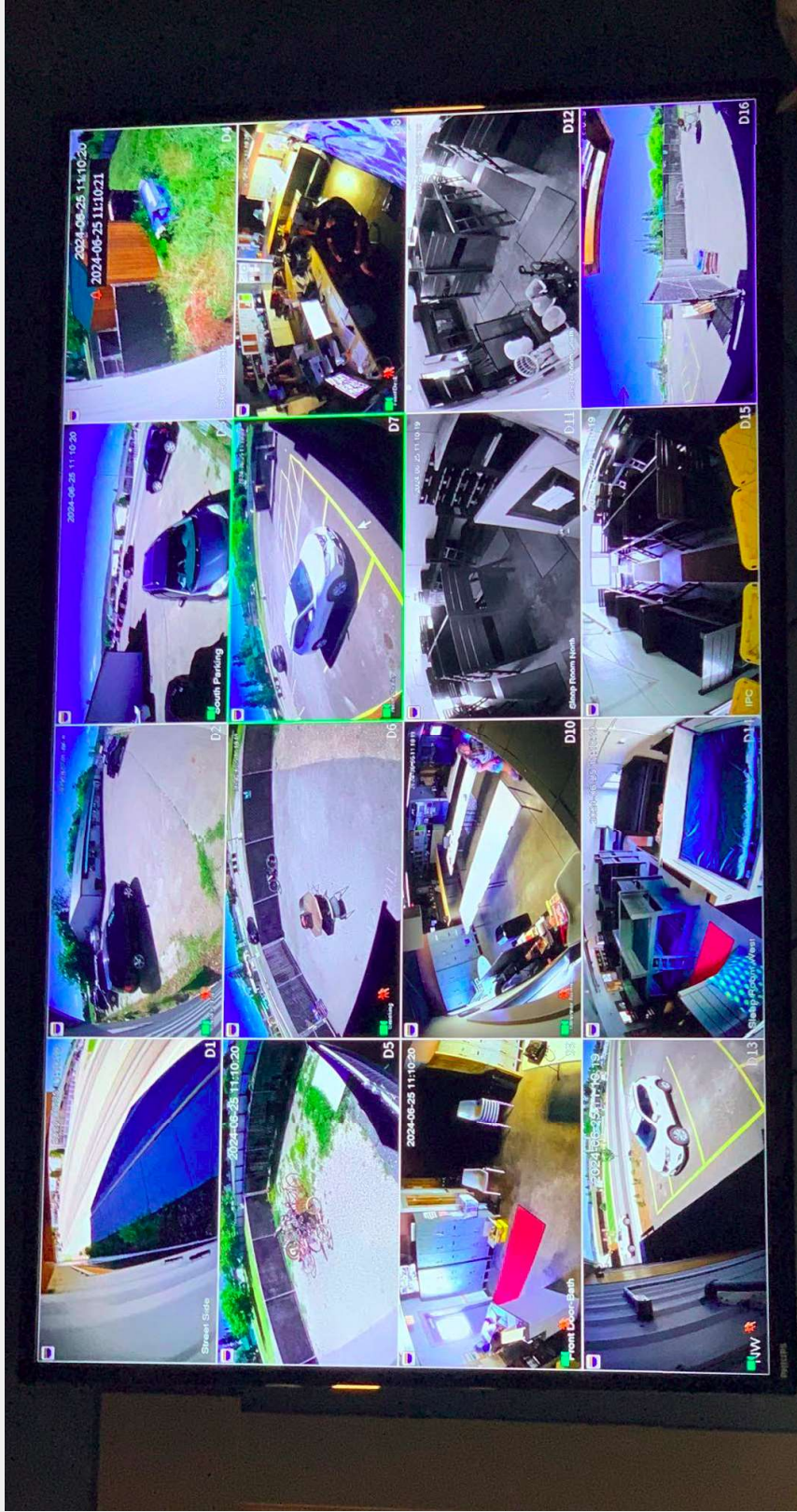


Drone picture of property after the  
FWC



# CUP APPLICATION

We will install security cameras to cover all sides of the shelter, these cameras will be attached to the building.  
(Application for Conditional Use Permit, Tonya Horn. Section 2-H.)



# CUP APPLICATION

"The shelter will pay for trash services. The shelter has a full- time director who will regularly walk the property and pick up any trash or items that may have been left." (Application for Conditional Use Permit, Tonya Horn. Section 3-D.)



**City of Kalispell**  
Post Office Box 1997, Kalispell, Montana 59903  
Telephone: (406) 758-7701 Fax: (406) 758-7758

**To:** Katie Sandry, Accounts Payable  
**From:** Jana Purdy, Office Manager  
**Date:** May 24, 2024  
**Re:** Refund Garbage Service

On May 17, 2024 (per service request #31133), The Warming Center's garbage service went (temporarily) to once a week collection which will continue through October. They have paid for (3) 300-Gallon: twice a week collection for the year 2024. Due to the change, we will be refunding the 5 months of the twice-a-week collection. The rate for June FY24 is \$102.00, and from July through October FY24, it is \$107.00. The refund calculation is as follows: \$102 x 1 = \$102; \$107 x 4 = \$428.00.

Please issue a refund check to:

**THE WARMING CENTER**  
**ATTN: TONYA**  
**PO BOX 7142**  
**KALISPELL, MT 59904**

**Amount: \$530.00**  
**Reference: 889 N Meridian – 5 Month Garbage Refund**  
Take from line item #  
5510-000-343420-000

## CUP APPLICATION

"We do not intend to ever be a 24-hour operation; however limited daytime hours allow opportunity for onsite, professional case management services. Day services will operate within the same policies and procedures that are established for night services and will always be directed and monitored by trained staff." (Application for Conditional Use Permit, Tonya Horn. Section 3-J.)

### Flathead Warming Center

#### Location

889 North Meridian Rd  
Kalispell, MT 59901

#### Overnight Shelter Operating Hours:

October - April from 6pm to 10am

#### Day Service Operating Hours:

May - September from 10am - 4pm

Showers and laundry are available on Mondays and Thursdays

screen capture from flatheadwarmingcenter.org



## CUP APPLICATION

We intend to have a sign on the building (please refer to the drawing) and a sandwich board™ in the front parking area to direct the flow of customers to the entrance of the building. (Application for Conditional Use Permit, Tonya Horn, Section 3-G.)



Just a week prior to the approval of the FWC Conditional Use Permit, The *Mayor's Homeless Task Force* presented the recommendations of their report to Council.

*Identifying Gaps/ Recommendations - #15*

15. A low-barrier shelter is essential to give those with no others options a place to stay that protects them from the elements and connects them to needed resources while avoiding unnecessary negative community confrontations.

Recommendation #15 for "Identifying Gaps/Recommendations"  
from *Mayor's Homeless Task Force 2020*

**“When there is a breakdown in communication,  
because people aren’t talking,  
that is when problems start.”**

**Councilman expressing the importance of communication  
Planning Board - CUP Hearing October 13, 2020.**

# Revocation or Collaboration